REGULATIONS

Applicable to Acceptance of Gifts and Decorations from Foreign Governments

By

Members, Officers, and Employees

Promulgated By The Committee On
Standards of Official Conduct
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

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COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

UNITED STATES HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

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PREFACE

The following regulations have been promulgated by the House Committee on Standards of Official Conduct to carry out the purposes of amendments made to 5 U.S.C. 7342 commonly known as the Foreign Gifts and Decorations Act, by Public Law 95–105.

The Committee has endeavored to make the regulations as inclusive and self-explanatory as possible; however, we realize that questions may arise in regard to situations not directly addressed. Specific inquiries as to applicability of the regulations or requests for interpretations of them may be directed to the Committee for response.

It is expected that Members, officers, and employees will exercise reasonable judgment in the conduct of their activity subject to the regulations and will adhere to the spirit and letter of the regulations.

It should be stressed that travel from the United States to a foreign destination is not permitted under section 6(e) of the regulations. The consent of Congress to acceptance of gifts of travel or expenses for travel from foreign governments extends only to travel taking place *entirely* outside of the United States.

When the value of a tangible gift or the intrinsic value of a decoration is not ascertainable by the donee, assistance in obtaining an appraisal may be sought from the Clerk of the House. The determination as to whether the donor of a proposed gift is a foreign government or an agent thereof is the responsibility of the proposed donee.

Forms required for disclosure under the regulations may be obtained from the office of the Committee on Standards of Official Conduct.

JULIAN C. DIXON
Chairman.

REGULATIONS FOR THE ACCEPTANCE OF DECORATIONS AND GIFTS, INCLUDING TRAVEL OR EXPENSES FOR TRAVEL, BY MEMBERS, OFFICERS, AND EMPLOYEES OF THE HOUSE OF REPRESENTATIVES FROM FOREIGN GOVERNMENTS

1. Authority

The Committee on Standards of Official Conduct is authorized to issue regulations on this subject by 5 U.S.C. §§ 7342(g), 7342(a)(6), as amended by Public Law 95–105, commonly known as the Foreign Gifts and Decorations Act.

2. Purpose

The purpose of these regulations is to establish standards for the acceptance and disclosure of decorations, gifts of more than minimal value, and gifts of travel or expenses for travel taking place entirely outside the United States tendered by foreign governments to Members, officers, and employees of the House of Representatives.

3. General Standards

(a) The United States Constitution (Article I, Section 9, clause 8) prohibits a Federal of-

ficial from accepting gifts of any kind whatever from a foreign government without the consent of the Congress.

(b) The Foreign Gifts and Decorations Act (5 U.S.C. 7342) prohibits an officer or employee of the Government from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government, and prohibits the acceptance of such gifts other than in accordance with the provisions of that Act as implemented for Members, officers, and employees of the House by these regulations.

(c) Rule XLIII, clause 4, of the Rules of the House of Representatives prohibits a Member, officer, or employee of the House from accepting gifts (other than personal hospitality of an individual or gifts with a fair market value of $50 or less) in any calendar year aggregating over $100 from a foreign national not acting as a representative of a foreign government. Food, lodging, transportation, and entertainment provided on an official basis by a foreign government to Members of the House of Representatives are not subject to the provisions of House Rule XLIII, clause 4, as such matters are deemed controlled by Constitutional and statutory prohibitions.

4. Definitions

As used in this section and sections 2, 3, 5 and 6 of these regulations:

(a) "Member, officer, or employee of the House of Representatives" includes the spouse of such individual (unless such individual and spouse are separated) or a dependent of such individual (as defined in section 152 of the Internal Revenue Code);

(b) "foreign government" means—

(i) any unit of foreign governmental authority, including any foreign municipal, local, State, and national government;

(ii) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (i); and

(iii) any agent or representative of any such unit or such organization, while acting as such;

(c) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government; and

(d) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

5. Consent of Congress for the Acceptance of Decorations

The Congress has consented (5 U.S.C. 7342 (d)) to the accepting, retaining, and wearing by a Member, officer, or employee of the House of Representatives of a decoration tendered

in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Committee on Standards of Official Conduct.

(a) *Decorations of minimal intrinsic value.*—Decorations presented to Members, officers, or employees of the House tendered by or received from a foreign government may be accepted by such Member, officer, or employee where the intrinsic value of the decoration is of minimal value, without prior approval of the Committee on Standards of Official Conduct. Decorations of minimal intrinsic value are defined as those having a retail value in the United States of $180 or less.

(b) *Decorations of more than minimal intrinsic value.*—Unless acceptance is specifically approved by the Committee on Standards of Official Conduct, decorations of more than minimal value, if not promptly returned, are deemed to have been accepted on behalf of the United States and shall become the property of the United States. Within 60 days after acceptance of such a decoration, the decoration must be turned over to the Clerk of the House of Representatives for disposal; or, with the approval of the Committee on Standards of Official Conduct, deposited with the Committee for official use. At the time such decoration is turned over to the Clerk

by a Member, officer, or employee, such individual must file a disclosure statement concerning such decoration with the Committee, detailing information as provided in section 7 of these regulations.

6. Consent of Congress for the Acceptance of Gifts

Congress has consented to the acceptance of certain gifts, or gifts under particular circumstances, from foreign governments by officers or employees of the Government, including Members, officers, and employees of the House:

(a) *Gifts of minimal value.*—Members, officers and employees of the House may accept gifts of minimal value from foreign governments tendered and received as a souvenir or mark of courtesy. Gifts of minimal value are defined as those having a retail value in the United States of $180 or less.

(b) *Gifts of more than minimal value where refusal may cause offense or embarrassment.*—A Member, officer, or employee may accept tangible gifts of more than minimal value when refusal would be deemed likely to cause offense or embarrassment or otherwise adversely affect United States foreign relations. However, any such tangible gift received and not promptly returned is deemed to have been accepted on behalf of the United States, and upon acceptance becomes property

of the United States. Within 60 days after accepting such a gift, the gift must be turned over to the Clerk of the House of Representatives for disposal, or, with the approval of the Committee on Standards of Official Conduct, deposited with the Committee for official use. At the time such gift is turned over to the Clerk by a Member, officer, or employee, such individual must file a disclosure statement concerning such gift with the Committee, detailing information as provided in section 7 (a) of these regulations. Intangible gifts of more than minimal value may only be accepted in accordance with section 6 (c) and (e) of these regulations.

(c) *Education scholarship or medical treatment.*—Members, officers, or employees of the House may accept a gift of more than minimal value from a foreign government when the gift is in the nature of an educational scholarship or medical treatment.

(d) *Foreign educational or cultural exchange.*—Acceptance of assistance from a foreign government for participation in foreign exchange or visitors programs by Federal officers or employees is consented to by Congress in certain instances outlined in 22 U.S.C. 2458a, the Mutual Educational and Cultural Exchange Act. Assistance or grants received under that act are not considered "gifts" under these regulations.

(e) *Travel or expenses for travel outside of the United States.*—A Member, officer, or employee of the House may accept gifts of travel or expenses for travel taking place entirely outside of the United States offered by a foreign government when such travel or expenses for travel relate directly to the official duties of the Member, officer, or employee. Gifts of travel or expenses for travel include food, lodging, transportation and entertainment relating to the official duties of the Member, officer, or employee. This provision allows a Member, officer, or employee to take advantage of opportunities such as certain onsite inspection or fact findings while in a foreign country. A spouse or dependent of a Member, officer, or employee of the House may accept such travel or expenses for travel when accompanying the Member, officer, or employee of the House. Such travel or expenses for travel may not be accepted merely for the personal benefit, pleasure, enjoyment or financial enrichment of the individual or individuals involved. The acceptance of any such travel or expenses for travel shall be reported within 30 days after acceptance to the Committee on Standards of Official Conduct, providing information required in section 7(b) of these regulations. For the purposes of these regulations, travel or expenses for travel are deemed accepted upon departure from the donor country

7. Reports and Disclosure

Any gift provided to a spouse or dependent should be considered to be a gift provided to the Member, officer, or employee and therefore must be disclosed by such Member, officer, or employee.

For the purposes of these regulations, any decoration presented by a foreign government to the spouse or a dependent of a Member, officer, or employee of the House is considered to be presented to the Member, officer, or employee when it is apparent the decoration would not have been offered but for the recipient's relation to the Member, officer, or employee, and therefore must be disclosed by such Member, officer, or employee.

An appraisal of tangible gifts or decorations, if necessary, may be obtained through the Clerk of the House of Representatives.

(a) *Tangible gifts and decorations.*—At the time of depositing a tangible gift or decoration of more than minimal value accepted by a Member, officer, or employee pursuant to section 5(b) or 6(b) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual and the recipient;

(ii) a brief description of the gift or decoration and the circumstances justifying acceptance;

(iii) the estimated value in the United States at the time of acceptance;

(iv) the date of acceptance of the gift or decoration;

(v) the identity, if known, of the foreign government and the name and position of the individual who presented the gift or decoration;

(vi) disposition or current location of the gift or decoration.

(b) *Other gifts.*—Within 30 days after acceptance of gifts of travel pursuant to section 6(a) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual;

(ii) a brief description of the gift and the circumstances justifying acceptance; and

(iii) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

8. Public Inspection

Reports filed under these regulations as promulgated under 5 U.S.C. 7342 shall be maintained by the Committee on Standards of Official Conduct and made available for public inspection at reasonable hours. Not later than January 31, 1979, and January 31 of each

succeeding year, the Committee on Standards of Official Conduct will compile a listing of all statements filed during the preceding year and will transmit such listing to the Secretary of State for publication in the Federal Register.

Reports filed with the Committee under these regulations will be maintained for public inspection for a period of 7 years following transmittal to the Secretary of State.

DISCLOSURE FORM PURSUANT TO 5 U.S.C. 7342

Name: .....
Position .....
Recipient (if other than reporting person): .....
Description:
(1) Tangible gift(s) of more than minimal value. .....
.....
.....
(2) Decoration(s) of more than minimal intrinsic value. .....
.....
.....
(3) Travel provided by a foreign government. .....
.....
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.....
.....
(4) Expenses for travel provided or reimbursed by a foreign government. .....
.....
.....
.....
.....

Circumstances justifying acceptance: .....

.....

.....

.....

Date or dates of acceptance (for travel give inclusive dates travel occurred): .....

.....

Donor government (if items are received from more than one foreign government, use additional forms): .....

.....

(1) Name and position of individual who presented item: .....

.....

For tangible gifts or decorations of more than minimal value only:

(1) Estimated value in United States at time of acceptance: .....

(2) Disposition or current location of accepted item(s): .....

.....

.....

_____

Signature

_____

Date of this report

PUBLIC LAW 95-105

FOREIGN GIFTS AND DECORATIONS

SEC. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

"(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

"(D) a member of a uniformed service;

"(E) the President and the Vice President;

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

"(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his

or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

"(2) 'foreign government' means—

"(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

"(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

"(C) any agent or representative of any such unit or such organization, while acting as such;

"(3) 'gift' means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

"(4) 'decoration' means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

"(5) 'minimal value' means a retail value in the United States at the time of acceptance of $100 or less, except that—

"(A) on January 1, 1981, and at 3 year intervals thereafter, 'minimal value' shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

"(B) regulations of an employing agency may define 'minimal value' for its employees to be less than the value established under this paragraph; and

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those respon-

sibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

"(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate;

"(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

"(b) An employee may not—

"(1) request or otherwise encourage the tender of a gift or decoration; or

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

"(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii), an employee shall—

"(A) deposit the gift for disposal with his or her employing agency; or

"(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e).

"(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

"(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use or forwarding to the Administrator of General Services for disposal in accordance with subsection (e).

"(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) forwarded to the Administrator of General

Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

"(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

"(2) Such listings shall include for each tangible gift reported—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance;

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift:

"(D) the date of acceptance of the gift;

"(E) the estimated value in the United States of the gift at the time of acceptance; and

"(F) disposition or current location of the gift.

"(3) Such listings shall include for each gift of travel or travel expenses—

"(A) the name and position of the employee;

"(B) a brief description of the gift and the circumstances justifying acceptance; and

"(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

"(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

"(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

"(2) Each employing agency shall—

"(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

"(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

"(C) take any other actions necessary to carry out the purposes of this section.

"(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

"(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government

employees from receiving gifts or decorations of more than minimal value.

"(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

"(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1978.

(b)(1) After September 30, 1977, no appropriated funds, other than funds from the "Emergencies in the Diplomatic and Consular Service" account of the Department of State, may be used to purchase any tangible gift of more than minimal value (as defined in section 7342(a)(5) of title 5, United States Code) for any foreign individual unless such gift has been approved by the Congress.

(2) Beginning October 1, 1987, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous fiscal year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

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